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November 25, 2013

Via: E-File

Ms. Molly C. Dwyer
Clerk of the Court
U.S. Court of Appeals for the Ninth Circuit
95 7th Street
San Francisco, California 94103-1526

Re: Enos, et al., v. Holder, et al., Case No.: 12-15498
Before: A panel has not yet been announced.
Status: Principal Briefing is Finished. Awaiting Oral
Argument.
Action: Distribute this Fed. R. App. Proc. Rule 28(j)
letter as appropriate given the current status of
the case.

Your Honors:

On November 22, 2013 the Appellees submitted a letter pursuant to Rule 28(j) providing notice of the decision in this Circuit in *United States v. Chovan*, No. 11-50107. (DktEntry: 23) *Enos* can be distinguished from *Chovan* on at least three important points.

All of the *Enos* appellants are currently law-abiding citizens, as they successfully petitioned for exactly that relief in a post-conviction adversarial procedure under California Penal Code § 1203.4. This point was raised in Judge Bea's concurrence.

Appellant Richard Enos actually went through an additional adversarial hearing to restore his rights under [then] Penal Code § 12021(c)(3) [now: § 29860].

Finally, some of the *Enos* Appellants' convictions were the result of plea bargains which occurred prior to 18 U.S.C. § 922(g)(9) becoming law and therefore they had no opportunity to make a knowing and intelligent waiver of their right to trial.

Further analysis would require more space than is permitted by Federal Rule of Appellate Procedure 28(j). Appellants are ready, willing and able to provide supplemental briefing at the Court's direction.

Respectfully Submitted,
/s/
Donald Kilmer
Attorney for Appellants

CERTIFICATE OF SERVICE

On this, November 25, 2013, I served the foregoing NOTICE OF SUPPLEMENTAL AUTHORITY by electronically filing it with the Court's ECF/CM system, which generated a Notice of Filing and effects service upon counsel for all parties in the case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2013.

/s/ Donald Kilmer
Attorney of Record for Appellants